

Remarks

No amendments have been made to the claims.

1. Rejection under 35 U.S.C. 102(e)

Claims 98-135 are rejected under 35 U.S.C. §102(e) as allegedly anticipated over U.S. Patent 6,171,549 to Kent ("Kent").

Applicants respectfully disagree with the Examiner's rejection of the claims in view of Kent. Kent does not teach a rate of gamma radiation greater than 3.0 kGy/hr. The Examiner cites to the abstract and column 1, line 62 through column 2, line 12 for this teaching. The abstract of Kent states that the method of the invention "involves irradiating the product at a low dose rate from about 0.1 kGy/hr. to about 3.0 kGy/hr. for a period of time sufficient to sterilize the product" (emphasis added). Column 1, line 62 through column 2, line 12 of Kent actually teaches away from using higher dose rates of gamma irradiation because "gamma irradiation can be damaging to radiation sensitive products such as blood."

The Examiner further recites column 10, lines 16-31 of Kent as teaching rates higher than 3.0 kGy/hr. An analysis of this section reveals another teaching away from using higher dose rates. Essentially, Kent cites work done by Gergely for a negative comparison. The Examiner appears to indicate that the "standard rates" recited in the specification as being used by Gergely are "greater than about 6.0 kGy/hr, greater than about 18 kGy/hr, or greater than about 30.0 kGy/hr." If Gergely does indeed teach these rates, then Kent clearly states that the observed insolubilization of the irradiated protein under these conditions "would indicate a change/degradation of the protein." In distinguishing his own invention from the method (*i.e.*, higher dose rates) used by Gergely, Kent states that "[i]n contrast, using the present method at a dose rate of approximately 0.7 kGy/hr, none of the protein was insoluble." Thus, Kent is teaching away from dose rates higher than 3 kGy/hr. As the Examiner even acknowledged, none of the Examples in Kent use dose rates greater than 3 kGy/hr, and typically describe dose rates of 1.0 kGy/hr or less. For at least this reason, Kent cannot anticipate Applicants' claimed invention which requires a dose rate of greater than 3.0 kGy/hr. Accordingly, Applicants respectfully request that this rejection be withdrawn.

2. Conclusion


Upon consideration of the foregoing, it will be recognized that Applicants have fully and appropriately responded to all of the Examiner's rejections. Accordingly, all claims are believed to be in

proper form in all respects and a favorable action on the merits is respectfully requested. Should the Examiner feel that there are any issues outstanding after consideration of this response, the Examiner is invited to contact Applicants' undersigned representative to expedite prosecution.

Except for issue fees payable under 37 C.F.R. 1.18, the Commissioner is hereby authorized by this paper to charge any additional fees during the entire pendency of this application including fees due under 37 C.F.R. 1.16 and 1.17 which may be required, including any required extension of time fees, or credit any overpayment to Deposit Account 50-0310. This paragraph is intended to be a **constructive petition for extension of time** in accordance with 37 C.F.R. 1.136(a)(3).

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Morgan, Lewis & Bockius LLP
Customer No. **09629**
1111 Pennsylvania Avenue, N.W.
Washington, D.C. 20004
Tel: 202-739-3000
Fax: 202-739-3001

Respectfully submitted,
Morgan, Lewis & Bockius LLP



Gregory I. Lowen
Registration No. 46,882
Direct: 202-739-5915